

<b>STATE OF SOUTH CAROLINA</b>	)	<b>BEFORE THE CHIEF PROCUREMENT OFFICER</b>
<b>COUNTY OF RICHLAND</b>	)	
	)	
In the Matter of Protest of:	)	PROTEST DECISION
	)	
Bridge Corporation Group, LLC	)	CASE No. 2011-130
	)	
	)	
Materials Management Office	)	POSTING DATE: August 17, 2011
IFB No. 5400003123	)	MAILING DATE: August 17, 2011
Charter Air Transportation Services for	)	
<u>South Carolina State University</u>	)	

This matter is before the Chief Procurement Officer (“CPO”) pursuant to a letter of protest from Bridge Corporation Group, LLC filed August 2, 2011. With this invitation for bids (“IFB”), the Materials Management Office (“MMO”), on behalf of South Carolina State University (“SCSU”), attempts to procure Charter Air Transportation Services. Bridge Corporation Group, LLC protested MMO’s notice of intent to award to CSI Aviation Services, Inc. (“CSI Aviation Services”) alleging its bid was non-responsive.

The CPO conducted an administrative review without a hearing. This Decision is based on the procurement file documents and the applicable law.

### **NATURE OF PROTESTS**

Bridge Corporation Group, LLC’s protest letter is attached and incorporated herein by reference.

### **FINDINGS OF FACT**

The following dates are relevant to the protest:

1. On June 30, 2011, MMO issued the IFB. (Ex. 1)
2. MMO opened the bids on July 15, 2011.
3. On August 2, 2011, MMO posted a notice of intent to award to CSI Aviation Services. (Ex. 2)
4. On August 5, 2011, MMO suspended the intent to award. (Ex. 3)

## **CONCLUSIONS OF LAW**

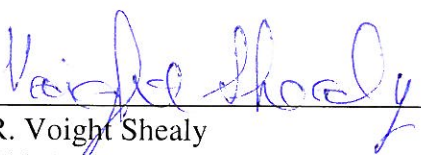
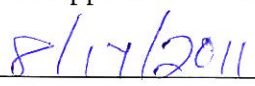
Bridge Corporation Group, LLC alleged that CSI Aviation Services' bid was nonresponsive because it failed to comply with all requirements of the solicitation. The CPO agrees.

In order to be awarded a contract, a bidder must be responsive. S.C. Code Ann. 11-35-1520(10). The South Carolina Consolidated Procurement Code ("Code") defines a responsive bidder as one "who has submitted a bid...which conforms in all material aspects to the invitation for bids..." Section 11-35-1410(7).

Here CSI Aviation Services' bid took numerous material exceptions to the IFB's requirements, terms and conditions. For example, the IFB required a bidder's price to include all fuel charges. (Ex. 1, p. 14). Despite this requirement, CSI Aviation Services provided a price that included an estimated dollar amount per gallon of fuel and reserved the right to bill the State a fuel surcharge if fuel prices increased over their estimated amount. (Ex. 4) Accordingly, the CPO finds that CSI Aviation Services' bid was nonresponsive.

## **DETERMINATION**

Based on the reasons set forth above, the CPO finds that the intent to award to CSI Aviation Services must be cancelled. Accordingly, MMO is directed to proceed in accordance with the Code and applicable Regulations.

  
\_\_\_\_\_  
R. Voight Shealy  
Chief Procurement Officer  
for Supplies and Services  
  
\_\_\_\_\_  
Date

Columbia, S.C.

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised July 2011)*

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

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Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: [www.procurementlaw.sc.gov](http://www.procurementlaw.sc.gov)

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 83.1 of the General Appropriations Act for Fiscal Year 2011-2012, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, an incorporated business must retain a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003).

## Skinner, Gail

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**From:** Protest-MMO [Protest-MMO@mmo.sc.gov]  
**Sent:** Tuesday, August 02, 2011 10:23 AM  
**To:** \_MMO - Procurement; Shealy, Voight; Skinner, Gail  
**Subject:** FW: Air charter award for football team

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From: e[SMTP:ERIC@BRIDGECORPGROUP.COM]  
Sent: Tuesday, August 02, 2011 10:22:57 AM  
To: Protest-MMO  
Subject: Air charter award for football team Auto forwarded by a Rule

Solicitation:  
5400003123

Description:  
Charter Air Transportation Services

Agency:  
SC State University

SAP

Bridge Corp Group LLC  
419 The Parkway suite 231  
Greer SC 29650

Hello,

We are protesting this Award based on the information required in section  
III SCOPE OF WORK/SPECIFICATIONS.

Winning bid does not include all taxes, FBO operations, screening, security, airport fees,  
and fuel charges.

Thnak you  
Eric Robinson 864-304-4575  
Pat Guadagno 732-688-7806